



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
805 Frontage Road
Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE: October 28, 2005

EXPIRATION DATE: November 28, 2005

REFERENCE NUMBER: POA-1978-60

WATERWAY: Kenai River

Interested parties are hereby notified that an application has been received for a Department of the Army (DA) permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Mr. Ron Weilbacher, P.O. Box 3824, Soldotna, AK 99669;

LOCATION: The end of Big Eddy Road, Tract 1A of the Baughman Subdivision, within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 5 N., R. 11 W., Seward Meridian, near Soldotna, Alaska. Kenai Peninsula Borough Parcel Number 057-670-01; Latitude: 60.5093°N, Longitude: 151.1323°W, USGS Topo Map, Kenai C-4 SE

WORK: The proposed work is to conduct annual maintenance dredging of approximately 222 cubic yards of material from 0.0689 acres below the ordinary high water mark of the Kenai River, at the entrance of an existing boat basin. The proposed dredge area would measure approximately 50' wide X 60' long X 2' deep. The material would be dredged to a depth 0.5' above the ordinary low water mark of the Kenai River. All dredge material would be disposed of in an upland location outside of the floodplain. The applicant is requesting that this work be authorized for a five year period.

PURPOSE: The purpose of the proposed project is to allow continued boat access to an existing basin from the Kenai River.

ADDITIONAL INFORMATION:

The existing boat basin on the site was constructed prior to 1978 and did not require a DA permit during construction. The first DA permit for the boat basin was issued on November 23, 1979, when an Individual Permit (IP) was issued to Mr. Errol Baughman (DA permit number POA-1978-60, Kenai River 32), to "retain and preserve an existing boat basin and to excavate a 30' wide boat ramp sloped gradually upland for 20' at the southeast end of the boat basin, to provide better access for pleasure craft." This permit was subsequently transferred to Mr. Ron Weilbacher on January 6, 1996.

On December 8, 1995, a Nationwide Permit (NWP) #35, Maintenance Dredging of Existing Boat Basins, was verified to Mr. Weilbacher for the maintenance dredging of approximately 1388 cubic yards of gravel and silt material from the channel of

the existing basin and to dredge approximately 111 cubic yards of gravel and silt material from the entrance of the boat basin.

On April 12, 1996, a NWP #11, Temporary Recreational Structures and a NWP #13, Bank Stabilization, were verified for the installation of 6 sets of stairs below the OHWM of the Kenai River as well as the installation of approximately 500 linear feet of cabled spruce trees below the OHWM of the Kenai River.

On May 27, 1998, a NWP #3, Maintenance was verified for the repair of the damaged cabled spruce tree revetment authorized on April 12, 1996.

On February 14, 2000, May 6, 2002, and April 11, 2003, NWP #35 was again verified to Mr. Weilbacher for the maintenance dredging of approximately 222 cubic yards of sand and gravel, which was to be disposed of at an upland location, outside of the floodplain. All of the IP's authorized and NWPs verified for the various activities at this site were given DA permit number POA-1978-60, Kenai River.

For project specific information, please contact the applicant's agent, Mr. William J. Nelson, William J. Nelson & Associates, 155 Bidarka Street, Kenai, AK 99611; (907)283-3583 or FAX (907)283-4514.

WATER QUALITY CERTIFICATION: Because the proposed project is subject to only Section 10 of the Rivers and Harbors Act of 1899, a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217) from the Alaska Department of Environmental Conservation is not necessary.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Lisa M. Gibson at (907) 283-3519, if further information is desired concerning this notice.

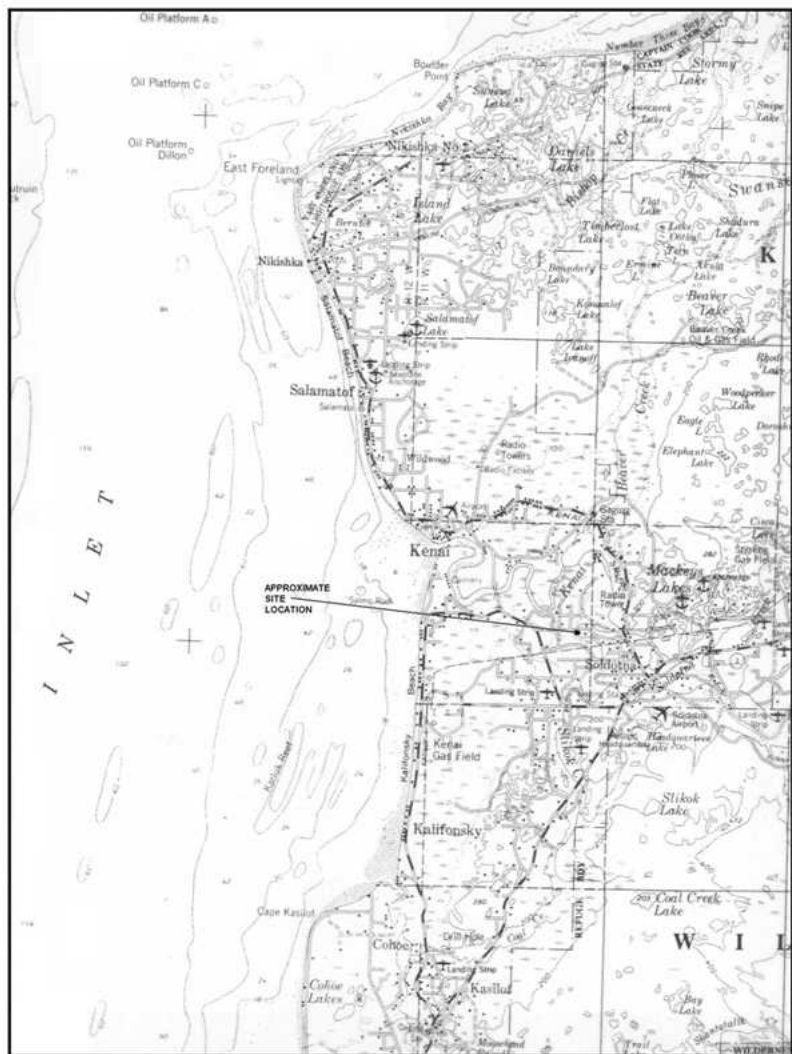
AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States -
Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

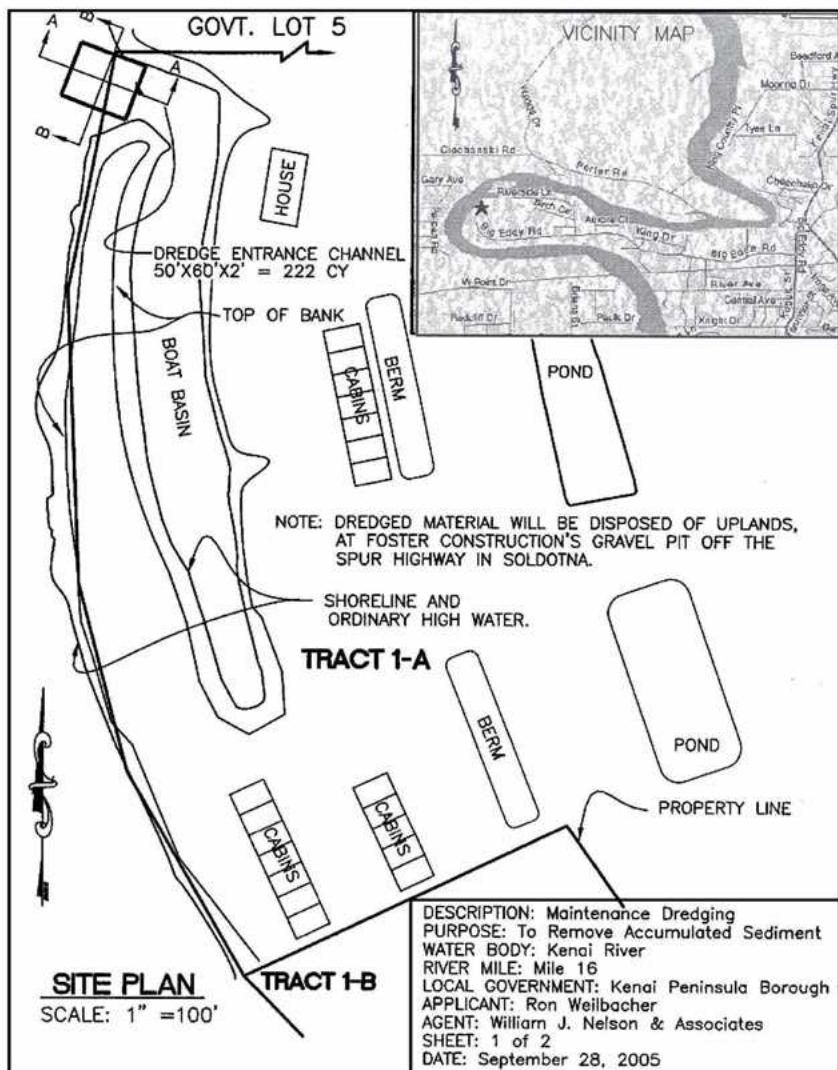
A plan and a Notice of Application for Certification of Consistency with the
Alaska Coastal Management Program are attached to this Public Notice.

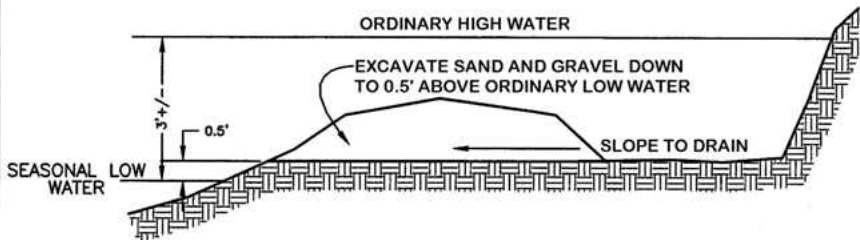
District Engineer
U.S. Army, Corps of Engineers

Attachments



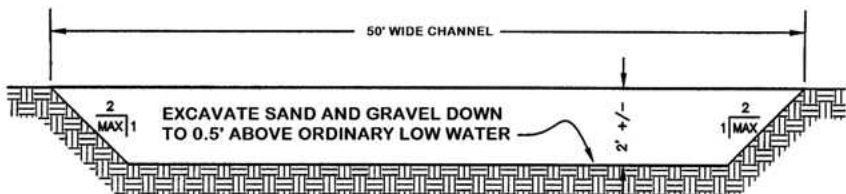
POA-1978-60-1, KENAI RIVER
SHEET 1 OF 3





SECTION A-A

NOT TO SCALE



SECTION B-B

NOT TO SCALE

**POA-1978-60-1, KENAI RIVER
SHEET 3 OF 3**

DESCRIPTION: Maintenance Dredging
PURPOSE: To remove accumulated sediment
WATER BODY: Kenai River
RIVER MILE: Mile 16
LOCAL GOVERNMENT: Kenai Peninsula Borough
APPLICANT: Ron Weilbacher
AGENT: William J. Nelson & Associates
SHEET: 2 of 2
DATE: September 28, 2005

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No.

POA-1978-60, Kenai River, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.